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**FILED**  
AUG 15 2008  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

IFP  
NR  
(S)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ADR

John Coleman

Plaintiff,

vs.

Michael Chertoff  
Secretary, Dept  
of Homeland Security Et. Al

Defendant(s).

CASE NO. C08-03921

EMPLOYMENT DISCRIMINATION  
COMPLAINT

EMC

1. Plaintiff resides at:

Address

City, State &amp; Zip Code

Phone

2. Defendant is located at:

Address

City, State &amp; Zip Code

3. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred on this Court by 42 U.S.C. Section 2000e-5.

Equitable and other relief is sought under 42 U.S.C. Section 2000e-5(g).

4. The acts complained of in this suit concern:

a. ☒ Failure to employ me.b. ☒ Termination of my employment.

GO 44 SEC. N  
NOTICE OF ASSIGNMENT  
TO MAGISTRATE JUDGE SENT

1 c. ☒ Failure to promote me.

2 d. ☒ Other acts as specified below.

(See Attached)

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9 5. Defendant's conduct is discriminatory with respect to the following:

10 a. ☐ My race or color.

11 b. ☐ My religion.

12 c. ☐ My sex.

13 d. ☐ My national origin.

14 e. ☒ Other as specified below.

(See Attached)

15  
16 6. The basic facts surrounding my claim of discrimination are:

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25 7. The alleged discrimination occurred on or about 10/13/02.

(DATE)

26  
27 8. I filed charges with the Federal Equal Employment Opportunity Commission (or the  
28 California Department of Fair Employment and Housing) regarding defendant's alleged

1 discriminatory conduct on or about (See Attached.) 3/23-24/04  
2 (DATE)

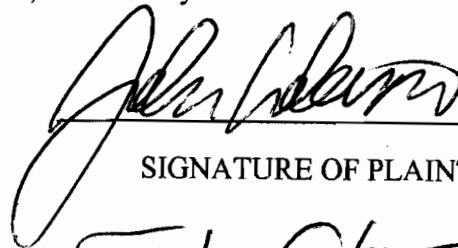
3 9. The Equal Employment Opportunity Commission issued a Notice-of-Right-to-Sue letter  
4 (copy attached), which was received by me on or about 11 (11/3/04)  
5 (DATE)

6 10. Plaintiff hereby demands a jury for all claims for which a jury is permitted:

7 Yes ☒ No ☐

8 11. WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate,  
9 including injunctive orders, damages, costs, and attorney fees.

10  
11 DATED: 8/15/08



SIGNATURE OF PLAINTIFF

12  
13  
14 (PLEASE NOTE: NOTARIZATION  
15 IS NOT REQUIRED.)



PLAINTIFF'S NAME

(Printed or Typed)

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To: Magistrate Judge Chen For 12/17/07

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Last Modified: 12/17/07 4:08 pm

To: Magistrate Judge Chen For 12/17/07

C/O: Betty Fong

Re: Request for Review/#05-00431

Fax-No#510-522-3605

Your Honor,

You heard my arguments 2-years ago as this case was transferred to the 9th Circuit per request, (and came back), as to review the "Oath of Office" as mandated by the \*U.S. Constitution to be a Federal employee as in my case was the attempt to be a TSA Screener, \*(U.S. Constitution, Art VI cl 3), as Judge William Fletcher, on 9/5/07 writing for the U.S. Court of Appeals for the 9th Circuit as to screener John Gavello, "if Congress wishes to deny federal employees the ability to redress alleged constitutional violations, it must state its intention clearly," the decision said. "We conclude that the statutory scheme governing TSA security screeners doesn't express a clear intention on the part of Congress to preclude judicial review of screeners' constitutional claims."

Fletcher ruled that because "there is no administrative scheme that would afford probationary TSA screeners...with any administrative forum in which to seek relief, "Gavello's case can be heard in federal court. Fletcher remanded the case back to District Court...

I stand behind my arguments as written throughout 05' as it seems the Court was waiting for a "precedent" since my case wasn't to become one here...as I would like to know the mechanisms to have this heard in Judge Fletcher's Court, relay the forms as my status is still, "Forma Pauperis", and get a ruling on area that neither your Honor nor 9th District seemed to have caught on to as in my initial filing 1/28/05 and subsequent filings with the 9th District "no one" reviewed that I had mistakenly put in a typo of "US Const, Art <IV> cl 3, as should have been as above, <VI>, but Courts argued me anyway, (as to Defendant...).

Mr. Gavello's case only would have been heard after he had given his Oath as I will continue to argue that I was as well a Federal Employee, (whether Oath given 4-hours into "employment" or as a long term Federal employee), therefore entitled to the same equal rights to have my case heard as Mr. Gavello's.

Regards, John Coleman/510-213-9045/PO Box 996/Alameda, Ca., 94501

Print Date: Apr 15 2:54pm

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ORIGINAL  
FILED  
JAN X 8 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN W. COLEMAN,  
Plaintiff,

No. C-05-0431 EMC

v.

THOMAS J. RIDGE, Secretary, Department  
of Homeland Security,  
Defendant.

**ORDER DENYING PLAINTIFF'S  
THIRD MOTION FOR RELIEF FROM  
JUDGMENT UNDER RULE 60(B)**

On December 17, 2007, Plaintiff John W. Coleman sent a letter to the Court. Based on the letter, it appears that Mr. Coleman wishes to re-open his case. The Court shall construe, for Mr. Coleman's benefit, his letter as another motion for relief from judgment under Rule 60(b).<sup>1</sup> See *Standard Oil Co. v. United States*, 429 U.S. 17, 18-19 (1976) (allowing a district court to entertain a Rule 60(b) motion to reopen a decision that has been affirmed on appeal without obtaining leave from the appellate court). For the reasons stated herein, the Court hereby **DENIES** the motion.

In his motion, Mr. Coleman argues that his case should be re-opened in light of a recent Ninth Circuit decision, namely, *American Federation of Government Employees Local 1 v. Stone*,

<sup>1</sup> Previously, Mr. Coleman filed a "request for reconsideration/restatement," which the Court construed as a Rule 60(b) motion. See Docket No. 10. The Court denied that motion on May 31, 2005. See Docket No. 12. Thereafter, Mr. Coleman sent a letter to the Court on or about May 17, 2006, which the Court construed as a second motion for relief from judgment. The Court denied that motion on July 19, 2006. See Docket No. 18.



1 502 F.3d 1027 (9th Cir. 2007). The Court agrees with Mr. Coleman that *American Federation* is not  
2 only binding authority on this Court but also instructive with respect to some aspects of his case.

3 In *American Federation*, the plaintiff was -- like Mr. Coleman -- a TSA security screener.  
4 The plaintiff posted union materials in the employee break room and made union forms available to  
5 fellow employees. *See id.* at 1030. In response, TSA management allegedly retaliated against the  
6 plaintiff, for example, by issuing him a written verbal warning for conducting union activities on the  
7 job, by putting him on administrative leave after he refused to answer questions about his union  
8 activities, by issuing him a "Memorandum of Counseling" for, *inter alia*, posting union materials  
9 before receiving approval from TSA management, and finally by terminating him. *See id.*  
10 Subsequently, the plaintiff brought suit against the TSA Administrator in his official capacity,  
11 claiming that his First Amendment rights to free speech and association had been violated inasmuch  
12 as the plaintiff was punished for engaging in union activities. *See id.* at 1029.

13 According to the Ninth Circuit, under the Aviation and Transportation Security Act  
14 ("ATSA"), the TSA Administrator has the authority to "employ, appoint, discipline, terminate, and  
15 fix the compensation, terms, and conditions of employment of Federal service for such a number of  
16 individuals as the [Administrator] determines to be necessary to carry out . . . screening functions."  
17 *Id.* at 1030 (quoting ATSA § 111(d)). Pursuant to that authority, "the TSA Administrator issued a  
18 Human Resources Management Letter dated July 29, 2002, which declared that all screeners are  
19 subject to a one year probationary period and 'may be terminated at any time' during that period."  
20 *Id.* at 1031. The TSA letters further stated that screeners (unlike non-screeners) had no right to reply  
21 to a termination letter or to bring an administrative appeal. *Id.* In contrast, other employees can  
22 appeal personnel decisions to the MSPB and seek judicial review thereof.

23 The plaintiff in *American Federation* was a probationary screener, having been employed by  
24 the TSA for less than one year. *See id.* The question for the Ninth Circuit was whether the above  
25 provisions precluded the plaintiff not only from pursuing remedies before the MSPB, but also from  
26 obtaining any judicial review of his constitutional claim. The Ninth Circuit concluded that although  
27 the plaintiff had no statutory right to appeal his termination under the Civil Service Reform Act  
28

1 (“CSRA”) and could not seek relief from the MSPB<sup>2</sup>, he did have a right to judicial review of his  
2 constitutional claim for equitable relief under the First Amendment. *See id.* at 1036. The Ninth  
3 Circuit explained that, under Supreme Court precedent, there must be a clear intention on the part of  
4 Congress to prohibit judicial review of a constitutional claim -- because otherwise there would be a  
5 serious constitutional question if a federal statute were construed to deny a judicial forum for a  
6 colorable constitutional claim. The Ninth Circuit found the ATSA did not reflect such a clear  
7 intention and thus did not preclude such judicial review. *See id.* Notably, however, the Ninth  
8 Circuit indicated that the above rule favoring judicial review did *not* apply where the claim involved  
9 was not a constitutional one. *See id.* (“When Congress decides to exclude an employee from the  
10 protections of the CSRA . . . , *Fausto* precludes the employee from obtaining judicial review of  
11 statutory or regulatory claims.”).

12 As noted above, *American Federation* is instructive authority. It clarifies the statutory  
13 framework for employment of TSA security screeners. Under the ATSA and the TSA letter,  
14 screeners, unlike other TSA employees, have no administrative remedies to challenge their  
15 termination.<sup>3</sup> They may, however, obtain judicial review of constitutional claims sounding in equity  
16 where the plaintiff has no other remedy.

17 This Court’s previous order dismissing the amended complaint appears to have been in error  
18 inasmuch as it based its dismissal in part upon Mr. Coleman’s failure to exhaust remedies under the  
19 CSRA. *American Federation* now makes clear that screeners such as Mr. Coleman have no  
20 remedies under the CSRA, but instead may challenge constitutional violations by the TSA directly  
21 in federal court by seeking equitable relief (but not damages) therein. Nonetheless, Mr. Coleman’s  
22 claim for relief under Rule 60(b) must be denied for several reasons.

23 First, the Ninth Circuit has said that “a change in the applicable law after a judgment has  
24 become final in all respects is not a sufficient basis for vacating the judgment.” *Tomlin v. McDaniel*,

25  
26 <sup>2</sup> The parties apparently agreed that, because of § 111(d), the “CSRA” did not apply to the  
27 plaintiff’s case. *See American Federation of Government Employees, Local 1 v. Stone*, C-04-1274 CW  
(Docket No. 20, at 5). The Ninth Circuit did not appear to take issue with this.

28 <sup>3</sup> An exception may exist as this Court noted in its earlier Order Dismissing Plaintiff’s Amended  
Complaint of May 2, 2005 for reprisals for whistleblowing in violation of 5 U.S.C. § 2302(b)(8).

1 865 F.2d 209, 210 (9th Cir. 1988); *see also Delay v. Gordon*, 475 F.3d 1039, 1046 n.13 (9th Cir.  
2 2007) (citing *Tomlin* for the proposition that there is no relief under either Rule 60(b)(5) or 60(b)(6)  
3 based on a change in decisional law). *See also Clifton v. Attorney General of the State of California*,  
4 997 F.2d 660, 664-65 (9th Cir. 1993) (accord). Under the Ninth Circuit's ruling in *Tomlin*, this  
5 Court may not reopen the judgment even in light of the *American Federation* case.

6 Second, even if this Court had the power to reconsider and reopen the case, unlike the  
7 plaintiff in *American Federation*, Mr. Coleman has not asserted any cognizable constitutional claim  
8 against the government. In his earlier appeal, the Ninth Circuit already adjudicated Mr. Coleman's  
9 retaliation claim and denied it on the merits. To the extent Mr. Coleman suggests that he has  
10 another constitutional claim based on Article VI, clause 3, of the Constitution, this provision simply  
11 states in relevant part that "all executive and judicial Officers, both of the United States and of the  
12 several States, shall be bound by Oath or Affirmation, to support this Constitution . . . ." U.S.  
13 Const., Art. VI, Cl. 3. Mr. Coleman has not cited any authority establishing that, under this  
14 provision, termination of an executive or judicial officer who takes this oath *ipso facto* violates the  
15 constitution. *See* Order of 3/22/05, at 3 ("[T]he thrust of Mr. Coleman's complaint is that, on or  
16 about October 13, 2002, he was hired by the TSA as a transportation security screener but that, only  
17 hours after being sworn in and filling out paperwork, was wrongfully terminated."). In contrast, the  
18 plaintiff in *American Federation* was engaged in union organizing activity, conduct protected by the  
19 First Amendment for which he was allegedly punished.

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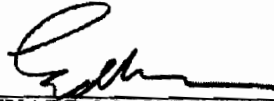
28 ///



1 Thus, although the Ninth Circuit's decision in *American Federation* indicate this Court erred  
2 in its procedural analysis of Mr. Coleman's rights and remedies under the CSRA, the Ninth Circuit's  
3 decision in *Tomlin* prevents this Court from reconsidering its earlier judgment. Even if the Court  
4 could reconsider, because no cognizable constitutional claim (such as a violation of the First  
5 Amendment) is alleged, the Ninth Circuit's decision in *American Federation* would not change the  
6 outcome in the instant case.<sup>4</sup>

7  
8 IT IS SO ORDERED.

9  
10 Dated: January 8, 2008

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13 EDWARD M. CHEN  
14 United States Magistrate Judge  
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28 <sup>4</sup> The Court does not address whether Mr. Coleman can file a new lawsuit based on a claim  
different than the one alleged in his complaint herein.

**YAHOO!** Notepad 

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To:United States District Court

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Last Modified: 8/14/08 3:06 pm

To:United States District Court  
In the matter of Michael Chertoff/DHS,&  
TSA and it's Officers ET AL...  
Previous Case(s) to review:  
Docket No. 05-16040-9th Circuit  
Lower Court Docket No. CV-05-00431-EMC

So let me get this straight...

...as it seems both the District Court and the 9th Circuit, (since I guess I had to challenge the 9th within a 2-month period back in 06' as to ruling on a wrong Constitutional Article), don't want to take up the fact that there has been an egregious mistake made on their behalf but woe is the person who will wait to hear an admission of a mistake from either body but rather as the District Court did respond with a 5-page lecture, (copies enclosed), I guess for my benefit of why "I'm wrong here again?" rather than address at all that the "wrong Constitutional Article" was decided upon by their Court, (& the 9th as again, "US Const, Art <VI> cl 3, not <IV> as in my initial filing 1/28/05 to the District & "typo" again per Brief to the 9th 7/18/05, as "I'm" catching/admitting to mistake ), as this has gotten so ridiculous that as I promised both bodies before "then in 2005" I would take to the public court to possibly weigh in here as should they now?...~~(M)~~ L. Mencken..."a judge is just a law student who gets to mark his own papers"...not so good here folks...)

I bring up the public since with the Supreme Court left? since Dist. Court & 9th grossly negligent as to a "technicality", given that I would have concern due to the history of "mistakes?" that have led to this writing, then would I now have to micromanage? the Justices decisions in Washington D.C.?, (just don't have time...), as I want to give now the District Court. (& the 9th?...), a try for an admission of fault? or a charge of judicial neglect by somebody? as I would rather be looking for to have this case heard in your Court...

"PLEASE", I don't need nor want another dissertation of "A vs B" because if there is an "out" for fouling up I'm sure you will have a diligent mole either find one or link some language using the best legal software etc..., as I spent what little time reviewing what "out?" is there for your Court and how you can "still two-step?" this but if your Court, (Clerks, Interns, Administrative Assistants, Et Al), who had a hand in reviewing as did the 9th Flow Chart but did not review the Constitution then neither you nor the 9th can "throw the 1st stone at me" as to even quote the Constitution as the Magistrate bailed, (not so cleverly), so what say you?...

("...Mr. Coleman has not asserted any cognizable constitutional claim?", Where is the Oath of Office then "Constitutionally Protected?", (in there already?), When is it protected?, When given?, or said out loud?, at "Congradulations?", or when I was asked in the beginning to raise my right hand and "repeat after me...", Is it "Protected Speech?", (the "ultimate" of Protected Speeches?), or was I protected all throughout & "beyond" even after that point of "4-hours?", or I was just protected for those 4-hours?...as have Evidence from TSA Vicki Brooks, received, 1/4/03, then head of TSA HR, said I was, "never an employee?"...so...where did my Oath go? I raised my hand not to the Constitution but to the, "Great Wind God in the Sky?"...).

To add, in my 1/28/05 submission to the Dist. Court as enclosed letter I sent to EEOC filed 2/23/03 contains following: per "West Federal Practice/Digest 4 under Appointment, Qualification, Tenure for: Officers & Public Employees"...U.S. vs Fenton 10f. Supp.2d 501 W.D. PA 1998..."in determining whether person is "official or employee", most important factor is whether person exercises some portion of sovereign power, while other factors include whether: EX#(1) of 7...position is created or authorized by Constitution or statutory provisions...#(4)...Oath of Office is required"... (whose right?).

I was suppose to get paid for that "4-Hour Orientation" 10/13/2002 but never did...(prerequisite to be employee anywhere?), since they destroyed paper-work, (as maybe why per FOIA/(Freedom of Information Request), I received #34 pages of "another" John Coleman's application?), & cancelled check I was asked to bring in for Direct Deposit as I brought up that was a violation of DOT law, (this was once DOT had been given jurisdiction, <DOT Subtitle 1, Title 49, USC, SEC. 521>,..."who knowingly falsifies, destroys, mutilates, or changes a report of record shall be liable to "U.S." for a civil penalty in an amount not to exceed \$5000 for each violation"... (and "me"?), I even relayed to her I have witness, <family friend also sworn in that day>, or can I "serve all" that were there that day? as does TSA still have records?.

If I was not employee per Vicki Brooks, then 4th Amendment Protection against "Unreasonable Searches & Seizures" since done "after" 10/13/2002 when I gave the Oath?... (per ChoicePoint Credit Check, calls to 3-individuals I registered for background checks).

Or should I done what I was told outside the auditorium by the individual who administered the Oath that I can "take it again?" In a couple of weeks when new hiring was to take place, how many times does one need to take the Oath for Federal positions?, when is it "good?", There are "Ceremonial Oaths" for some Fed. Offices then real one later or visa versa, (like for Chertoff), as which one should he, I, the Government acknowledge?, "...Mr Coleman has not cited any authority establishing that, under this provision, Article VI, cl 3, termination of an executive or judicial officer who takes the Oath, <"ipso facto?">, violates the Constitution?"...(not an envious position to take a Oath for a federal position that once done you have no remedies if treated wrongly as not great recruiting tool by TSA...).

It doesn't matter if I was taking the Oath to be a Federal "Clown", on that day, knowing that I had not, "knowingly and willfully did make a materially false, fictitious, or fraudulent statement in any of my paperwork", I was told 8-days before Orientation 10/13/2002, "Congradulations!", invited to sign a contract 10/5/2002, was then invited 10/13/2002 there to give my Oath, gave it, then was escorted out 4-hours later, (should I grabbed someone by the shirt collar & stop them then? If I was Federal employee after Oath & it got "violent", then I could had been charged with violating "Federal Law?" as moments before I was not under umbrella until Oath as that's what victims Attorney would have gone for to hit up "Federal Coffers" by using my Oath as to me arguing, "No, I'm not a Federal employee, as Oath doesn't mean anything?"), for reasons that had nothing to do with my abilities, my past, what had been vetted or tested for etc., as given what I relayed above and in my 05' writings & of those previously to Government entities....I got your "ipso facto?" right here!...

In page #2 of Judge Chen's letter, he cites that, "...all screeners are subject to a one year probationary period and maybe terminated "at any time during that period" under the "Aviation and Transportation Security Act, (ATSA). According to head of TSA HR Vicki Brooks, in a letter received 1/4/03, (as in 1/28/05 submission to the Court), I was "never an employee"...so if Court "Re-Establishes?", (best terminology?), or "Confirms" that my Oath should have been honored by TSA/DHS ET AL "as of" 10/13/2002 per Constitution, (as I asked Dist. Court in filing 1/28/05 for "Guideline then" since EEOC/Office of Special Council Letters convey quagmire I was in then as I had to turn to Court ), then I'm "No Longer" under the "1-Year Probationary Rule" as am nearing, "6-YEARS" of this, (my personnel file I guess clean?...no red flags?, no pay or promotions either?...never even got a uniform...strange job...).

If Oath is "confirmed" by your Court, and therefore "ipso facto" confirmed that I "have been" a Federal employee, do I need "Whistle-Blower" protection & or "other protections?"...Can TSA



turn around when Oath is confirmed by your Court & "fire me again?", (for what? after all I have given them this past 6-years....), & I'd have to start this mess all over again at the now "6th year" of my "employment?", (nah...won't happen), Can or should I file since 5th Amendment Violation of "Due Process" throughout! as this Court & the 9th kinda involved with this problem as well...where do I start?....).

Should I ask Court for Guideline as to Page #3 of Judge Chen's letter as can I ask now beyond for "equitable relief" (but not damages therein? as to Punitive), as does that apply now if this Court confirms my Oath?...as "Screeners have no remedies to challenge their termination"...Vicki Brooks said I never existed so, "never was terminated"...If the Court says the Gov. has to honor my Oath then TSA could argue then I should fulfill that one year period but I can't be reinstated, as of 2/05 I suffered a injury rendering me physically disabled, (as previously made know to Judge Chen in 05' as obvious Medical documentation in support...could/should have received SSI benefits already? so do I "retire on a Disability now?", or can "DHS" hire me separate, (will of course Re-Educate/Train/"Locate?" me to "G-level" Office Position to match my "6-Year Government Employee with a Spot-less Record!" as they may state "under their umbrella?" now anyway...(I think Actuary needed here?).

\*(and use funds to fly through U.S. Airports and have TSA treat me now as a "Special Passenger?"...(haven't flown since 9/99), maybe I can go on "Tour" and tour the District & Appeals Courts throughout U.S. and relay humorous lectures on my vast experiences with "all branches" of the Federal Government as to the Constitution dressed in robes & "wig" as to did back in the day...Produce new ABC After School Cartoon, "Constitution Dysfunction Junction" for the kiddies?....).

\*\*\*\*\*HAVING FUN YET!\*\*\*\*\*

(Have TSA use "my" argument submitted 8/15/05 to the 9th, "...but one has to wonder to the extent of all this public flogging creates a plausibility if & when something falls through the TSA/DHS Security cracks then there is no culpability because through Government transparency? DHS/TSA can say they already laid blame to personnel they hired, vetted, trained and "sworn in" ..."Fraud, Waste, Abuse?", "Prohibited Personnel Practice?" that DHS covered if Security issue as to TSA employees as their own "previous" DHS Inspec. Gen. Office had "forked" TSA as to vetting/hiring practices, (Clark Kent Irvin, who I guess made too much noise since he was fired, TSA "now?" "running smooth?" since haven't heard anything...), so when Security mistake? DHS will say, "that's what "we" said, their not qualified?" even though they oversee TSA...or maybe DHS/TSA can just use the public facts available that the TSA has the highest attrition rate in the Federal work force so I probably wouldn't have lasted since 10/02 as to worry about a compensatory, (punitive?), issues here).

It's time to "Reverse" Lectures!

(mostly due to being a "Long" 6 years since this incident 10/13/2002 and I'm tired of the B.S.), as I thought the Magistrate would catch on as this in filing, "you gave you Oath to "Protect & Defend the Constitution" as the same one I gave so how can mine be less then yours?...as in just "my case" yours better as to above! as how then can I honor my Country when it won't honor me to the one thing I'm required to do to be a Federal employee and take the Oath which so far the same Government refuses to acknowledge or honor?...if the Oath placed me on "equal footing" with any & all Federal employees at that "point & time" and then I guess "any Oath given" would suffice as done by a "designated?" Federal employee as then I want the next Judge to enter the District Court or the 9th to be given the Oath per Directive from USDA as the Program Assistant at the Field Office of the "Fruits & Vegetable Division" will be doing it!...(per my 1/28/05 submission).

This is a "free for all" that needs to be looked into, reigned in, and with my intent as well that besides to correct the wrongs done to me now up through this Court that the Oath be done with renewed dignity and be honored, (How many Oaths have you taken so far to get the point of being a Judge? how many Oath's given?).

\*In my 7/18/05 Brief to the 9th: "...the Oath to be a Federal Employee is just like a tool, that when taken away it can be construed as restraint of trade?, or is it insubordination if I refused?, that there was a suppression of free speech that day, 10/13/2002?, that the Oath is an "inalienable" right at the "point & time" it is given?\*

Some "intellectual or legal curiosity here?", What about "State" Oaths or Military Oaths? as to Federal,(which one super cedes?), or how about a discussion of Robert Hanssen & Opus Dei or "Religious Oaths? and their effect juxtaposed to the U.S. Oath of Office? and maybe discussion of "Secular & or Religious Oaths" such as about Jonathan Pollard's Oath to U.S.? (or his loyalty to "another" Country, as his "justification story?" as to spying for Israel on previous whiny interview on 60 Minutes as he even escapes Wikipedia related links for "U.S. Moles"...sounds like another "tribe" working on trying to steer public opinion...again)

I challenge any Court in the United States, including yours, to either disregard the Oath I took in 10/02 as what precedent do you have that ones oath was reversed without cause going back to that "point & time?" as the Oath was given as to me or to any others and that a U.S. Court did just that?...in previous submission(s) in 05' I relayed "History" shows that the Oath is used "legally" all the time in Federal cases "when broken" by a individual whom did not Honor, the ? is, what mechanism is in place when the US Government & their officials doesn't not Honor the Oath to one of its citizens whom they even invited to take the Oath?, What are the repercussions if "ensuing harm" occurs as to employment/"HOUSING"/educational or training or promotional opportunities/"Custody-Visitation Orders", (lets have a discussion of the Family Court "Judges?" & what they did to me & my kids since 10/2002), etc.,etc.,etc.,as I can attach evidence of those things happening to me since 10/2002 as "egregious harm" was caused here as I want the public to know so that for the "majority" this practice will stop & my suggestions for "Oath of Office Renewal" will then take place!).

(and let DHS argue their position "this time" as to "Court arguing?" position to hear/proceed as let them sweat, prove without a reasonable doubt, use their resources & might of their Offices to challenge my Oath as I will get to challenge theirs!...is that the problem?... "THEY" are the ones that need to be protected from me?, Can't have a jury of my peers decide same thing that I can convince "anyone" walking down the street?, <as I've done "numerous times">...not fear I smell...what do you think, "John & Jane Public" or the "majority" think here?, I can tell you!).

If not under retaliation how I've been handled by the TSA or DHS as the language I had used as to no other...then who is at fault?...doesn't seem even this Court is going to "Protect & Defend" here so since 10/2002 so I've been screwed since 10/2002 as isn't "intent" Mr. Coleman that you can prove as not "communal collusion" or a "cabal" here either but we are just a "grossly negligent bunch" who get away with this stuff all the time?...if things go forward, does this mean that discussion has to happen with the other party, D.H.S., as what, (God help us there is an admission of guilt), maybe, "talks could commence?" between myself & DHS? or is the Court worried about a "potential" incoming Administration and doesn't want to be on the "career" radar to decide as I past wrote to the Court, (read someday, someone...), "I know it's the electric 3rd rail of judicial review...", (even though the "Left" & the "Right" are affected).

Recent California State Court rulings as to gay marriage "vows", (or Oath), can be challenged in Courts & or by public mandate through voting on individual State propositions, (up to 11/08?), but "mandated Federal Constitutional Oath of Office", (just to be Federal employee), can't be called into question by the Courts or the Public or any Government entity or by John Coleman...right?...as which one more important to National Security? Gay Nuptials of a few thousand? or the "Oath of Office" effecting "All Americans" in putting people on the front lines representing their Country?...(don't ask the San Francisco Chronicle to lead with that story...).

\*(as a Native San Franciscan, if you have San Francisco Chronicle like we do out here then only "minority issues" will get in unlike EX:a story about the "8 Million" Californians with some form of Disability" as having a physical disability I thought they'd be of interest but "Gavin" needed something to put his chip in the Governor game as SFChronicle lost "10's of Millions of



dollars over the years, laid off hundreds of folks" as what Front Page story did they run with for months to get "readership?" of a minority demographic? It's not that business practice isn't "Econ 101" here as I don't think above didn't escape Editors as "their charge" was to sacrifice for Demo policies.

Should ask the employees if they signed up years ago when they "moved?" to San Francisco, (or "tapped it in" from Marin/Oakland etc...), for a "mission creep" going on for years to steer Opinion to allow "One Person", (Editor?, Mayor?, Political Party?, "Tribe?"...(narcissim?), to maintain a agenda that has nothing to do with San Francisco or "their" long term employment...(duped?).

<I'm from the "other scale" of that becoming rare breed of the Irish "Tribe" that see, defines, cut's through the bullshit, (if you couldn't tell), as to those "tribes" that like to "perpetuate a facade" at others, (or the majorities), expense>.

When the "public" sees that I received #34 pages of someone else's personal information when I requested a FOIA, ("Freedom of Information Act") from TSA, notified them, but no action, (I still have it), when I point out, (as I did "over & over" again), to the District Court that there was "no more arguments" per the "menu" provided to me as potential arguments as I had exhausted up to Dist. Court review, (which I was "right" now per the District Court), it instead batted this this around up through it's last 5-page cha-cha as this is a career bender, not a career builder case, I understand that, (unless you "politically swing? which way...should I check in with "Texas?" just in case?).

But that is the Oath you took to hear cases such as this as messy as this is as no difference if I "had been" a TSA Screener and took a Oath which entailed, "messes", I'm telling you just to hear a case if anything not just besides the obvious merits of this case that would require rigorous debate but also because your Court & the 9th, "F'd up" (and as 9th did before I'd got to them, "I don't want to hear this again so can't bring up our mistake that in essence affects you,"), and if I did to a equal or lesser degree, I would be fired or lives could have been lost & that's the tragedy, (but don't think TSA or DHS have a job that I can cover my mistakes or no oversight to review?, that job only belongs to the Judicial side...).

I had previously written that the Oath of Office "is" a "National Security Issue" as again, (read past submissions "someone" of mine in 05' as I call what I do a renewal of a "Civics lesson" for it seems to "most" I approach here or that it could be said that I'm "Paul Revere'n" that changes have to happen here or...), that there should be a litmus test of Judges or Federal employees charged who administer the Oath "and" those who are to the take the Oath for "any" Federal position, (as new citizens seem to understand Civic/Legal status when they take the Oath to become citizens), folks should understand both the Civic significance "and" the Legal responsibilities that come with it, (as should this Court), but who begins a systemic review of the Oath of Office? The Courts? Congress? or per this case is everything working well out there to leave as is?.

This Court & the District Court has made a very serious error in ruling on the wrong Constitution Article then attempt to hold me to task for not presenting previous Gov. Retaliation arguments to it's satisfaction?, (now I possibly can't show retaliation now that would involve "some" intelligence by the party or parties including "you guys!" so "gross negligence?...as what mechanism besides the renewal of purpose as to "meticulous" reviews the District Court will "now?" do, how does one charge the Dist. Court or the 9th with "injury" here?...also therefore effected me receiving representation in e past Pro Bono Program(s) of your Court/9th, as per my previous request per Court's mistake as "legal restraint here?"...would they have caught same thing as to ruling on wrong Constitutional Article and fought for me?, never given the chance...).

...O.K...then this Court will hear this case as outlined above as to put the "Oath of Office" as mandated by the Constitution to a test as I test this Court, TSA, Dept. of Homeland Security and my Government as a whole to challenge me that my Oath was worthless as to "any other Federal employee past or present including those who took the Oath the same day,

10/13/2002, and not entitled to rights, back pay/benefits, "other request" as the slippery slope is that every Judge sitting on your Court's "Oath" can and should be challenged besides "up & down" the Federal flow chart if a ruling is not in the spirit of or held "legally binding?" even though the Constitution mandates I take the Oath that I took that day in Oct. 2002 as then "no parties Oath" as mentioned above should be honored because there is then a intent not to by the District Court & the "Whole 9th" to: "...Defend & Protect the Constitution...", as I was being asked to do for "them!", 10/13/2002, (just when it comes to you, Mr. Coleman? as thought "separate but equal" over with or am I to hear the "Living Document" arguments?...my Grandparents came from Ireland so with "dual citizenship" I could find a "home" otherwise as maybe their Constitution stronger?).

This Court already knows that Civil Rights attorneys/firms run into \$100k+? as Pro Bono?, as this bottle-neck for individuals mean that your Court is not tested by potentially a "litany of cases" it should of heard & rendered a decision, "years ago" as to Oath of Office issue as 5th Amendment of Due Process not being honored even by Courts as many past & present cases could & would be affected as I hope that is not the hold up...as with "1/4 of students flunking out of High School in California" & by 2050 1/2 the Country will be made up of non-white "minorities?", (terrible name), as who gets to educate these folks?, (this Court?), "through the years" on the Constitutional Oath of Office and what it means as to be an "American" once given, once received?

(Maybe they will want to be Judges if their told it's a great gig since you get to "Mark your own Papers"...Strip-Mall schools will be full!)

(GOD HELP THIS COUNTRY!)

I know about this issue more than this Court or those Attorneys/Firms so unless you want a wash as to mute my arguments if I get accepted into your Pro Bono program where I can get a Law Student assessment as while not desirable to the Court, I will argue here up and till I receive representation.

"Infer" this: besides I'm sure is a well stocked Legal Library & with another personal one at home I want to quote you from a book that should be required reading or should be on all the Justices desk there at the District Court & the 9th Circuit along with your Bible and a text of the Constitution, (that I'm sure you will be reviewing more often, pocket ones available...), "ON BULLSHIT" by Harry G. Frankfurt, ""...even the most basic and preliminary questions about bullshit remain, after all, not only unanswered but unmasked"..."

Regards, John Coleman

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